

REMARKS

Currently, claims 1-24 are pending. The Examiner has restricted the claims in the case to three (3) groups broken down as follows:

1. Invention I, claims 1-11 and 13-16, drawn to a method for treating at least one condition selected from the group consisting of rosacea, acne, skin redness or other discrete erythema of the skin by administering topically at least one α_1 adrenoreceptor agonist;
2. Invention II, claim 12, drawn to a composition for topical administration to the skin for treating rosacea comprising oxymetazoline HCl and an inert carrier; and
3. Invention III, claims 17-24, drawn to an acne and rosacea treatment composition comprising an acne treatment medication selected from the group of benzoyl peroxide and salicylic acid, a vasoconstrictor that is an α_1 adrenoreceptor agonist, and an inert carrier.

In addition, the Examiner has required Applicants to elect a species for both (i) an α_1 adrenoreceptor agonist and (ii) conditions, as claims 1-2, 7-11 and 13-22 are generic to the α_1 adrenoreceptor agonists and claims 1-6, 11 and 13-24 are generic to the conditions.

Applicant respectfully traverses the Restriction Requirement and requests reconsideration. In order to be fully responsive, Applicant has provisionally elected, with traverse, the invention of Invention Group I as defined by claims 1-11 and 13-16 directed to a method for treating at least one condition selected from the group consisting of rosacea, acne, skin redness or other discrete erythema of the skin by administering topically at least one α_1 adrenoreceptor agonist, and further elects, with traverse, oxymetazoline as the α_1 adrenoreceptor agonist and rosacea as the condition. Accordingly, the claims that are readable upon such an election are as follows: claims 1, 2, 3, 7 and 13-16.

It is respectfully submitted that the search classification for each invention group will substantially overlap. Each of the claims, as presently recited, are directed to a topically administerable composition comprising an α_1 adrenoreceptor agonist and methods of using such a composition. The Examiner will not be seriously burdened by searching and considering the

inventions as described in all the currently pending claims. Accordingly, the Examiner has not established a proper restriction requirement under MPEP § 803.

By this election, Applicant does not admit, nor does Applicant waive the right to argue against at a later date, the Examiner's statement that the groups of inventions are patentably distinct. Applicants expressly reserve the right to present the claims of Invention Groups II or III, or other claims, in one or more divisional, continuation, or continuation-in-part applications at a later date.

Information Disclosure Statement

Applicants submit herewith an Information Disclosure Statement (IDS) for the Examiner's review and consideration.

Request for Interference

Additionally, Applicants would like to inform the Examiner that U.S. Application No. 10/853,585 (Publication No. 2004/0242588) filed on May 25, 2004 to DeJovin et al. has been amended such that the '585 Application no longer claims subject matter that the Applicants believe interfere with the claims of the present application, as originally presented in the Request for Interference Between Applications Pursuant to 37 C.F.R. 1.604 filed on April 19, 2005. Notwithstanding, it would appear that U.S. Application No. 11/321,093 (Publication No. 2006/0171974) filed December 29, 2005 to DeJovin et al. contains certain claims that are identical to claims of the present application. In particular, it would appear that claims 83-96 of the '093 Application are identical to claims 1-8, 11-14 and 16 of the present application.

CONCLUSION

Applicant has timely filed this response. In the event that an additional fee is required for this response, the Commissioner is hereby authorized to charge such fees to Deposit Account No. 50-0436.

Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, he is invited to contact the undersigned at his convenience.

Respectfully submitted,

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